

MINUTES

ECONOMIC DEVELOPMENT & RENEWABLE ENERGY STRATEGIES COMMITTEE
October 26, 2011

A meeting of the Economic Development & Renewable Energy Strategies Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Dickie Chang, Chair, at the Council Chamber, 4396 Rice Street, Suite 201, Wilcox Road, Lihue, Kaua'i, on Wednesday, October 26, 2011, at 10:46 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable JoAnn A. Yukimura
Honorable Dickie Chang
Honorable Jay Furfaro, Ex-Officio Member
Honorable Mel Rapozo, Ex-Officio Member

The Committee proceeded on its agenda item as follows:

Bill No. 2415 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
EXEMPTIONS FOR COMMERCIAL ALTERNATIVE ENERGY
FACILITIES
[This item was deferred.]

Mr. Chang: The Chair of the Economic Development & Renewable Energy Strategies Committee is called to order. Let the record reflect that all Councilmembers are present. I'm going to ask for a 10 minutes recess. I understand that there are possible amendments. I know Mr. Bynum you may have one. But if you do, if we could circulate that and we're going to do a 10 minute recess please.

There being no objections, the meeting recessed at 10:46 a.m., reconvened at 11:04 a.m. and proceeded as follows:

Mr. Chang: Good Morning everybody, good morning everybody. Chair of the Economic Development & Renewable Energy Strategic Committee would like to call the meeting back to order after a recess. All Committee Members are present. What we're going to do is, my intention is to have this item deferred. However, I would like to have discussion with our members and when we have our discussion I'm going to suspend the rules and take testimony from our audience out here. So Councilmembers, any discussion at this time? Councilmember Bynum.

Mr. Bynum: I appreciate the testimony we had last time and I have prepared an amendment that I sent to the County Attorney last Friday.

We just received a response from them which I haven't read completely, but it is available for Councilmembers. My understanding of it though from staff is that it doesn't object to the substance of the proposal, just some technical implementation kind of...So what I'd like to do with the Chair's permission is to outline the parameters of that amendment so people can kind of understand it. But I don't think it's going to form to introduce today yet. We should be able to do that by the next meeting.

Okay so we had testimony, this is an alternative energy bill to allow improvements related to alternative energy to have tax exemptions to be taxed at a lower rate. The improvements are exempt from taxation. The issue has been the underlying land. Alternative energy projects all have different proformas or business plans. Some generate large amounts of energy on a small footprint, and others generate smaller amounts on a larger footprint. And so the Administration had proposed that any alternative energy that the underlying land be assessed at industrial rate and then discounted by 50%, and all of the improvements on that land would be exempt from taxation. It's in order to incentivize alternative energy production and do a lot of benefits which we've discussed previously.

The amendment says to the developer – you can use that proposal or as an alternative you can pay an in lieu fee of 1.5% of gross revenue. Gross revenue is already something that is generated by the developers for their GE taxes, it doesn't require a full opening of the books but just the same kind of reporting they would do for GE. It would provide predictability because assessed values may change over a 20 year period, but an in lieu fee set at 1.5% of gross revenue would be very predictable. And if for some reason the alternative energy production was lower, the tax bill would be lower and it would provide I think what developers need is predictability especially for solar projects that have a large footprint but not as big a production in terms of energy. That's the key element. There's another provision in the amendment that says – for a solar array, if more than 10% of the property is on A and B lands there would be no exemption allowed. So basically making it not feasible in most instances to do a solar array on prime A and B ag lands. Those are the two provisions of the amendment. My understanding of the response from the County Attorney is more needing to change the language to make the implementation strategies clear of when it starts and how it starts. But substantively they're not objecting to those proposals.

So I would see the process, we all will get copies of that written response and we'll have two weeks to try to deal with the technical issues and then see if the Council agrees with this amendment.

Mr. Chang: Thank you Councilmember Bynum, any other Councilmembers? Anybody wish to discuss? Councilmember Nakamura did you have any, go ahead please.

Ms. Nakamura: I have a question for the County Attorney's Office and I'm not sure whether the correspondence that you received Councilmember Bynum from the County Attorney's Office dealt with this question. So I'll just throw it out, I just wanted to confirm the County's authority to initiate and in lieu fee. I want to ask that staff follow up with a memo to the County Attorneys if it's not addressed in that memo that you received today.

Mr. Chang: Councilmember Nakamura I believe that the County Attorney is here, would you like to ask, pose that question to him?

Ms. Nakamura: Sure.

Chair Furfaro: Do you need to get him?

Mr. Chang: Yes, I think our staff went out there. Prior to the arrival of our County Attorney would any other Councilmembers care to comment? If not, why don't we take a two minute recess, we'll wait for the County Attorney to come in so this Committee is called to recess for two minutes thank you.

There being no objections the meeting recessed at 11:10 a.m., reconvened at 11:11 a.m., and proceeded as follows:

Mr. Chang: The Economic Development & Renewable Energy Strategic Committee is called back to order from recess, Councilmember Nakamura had the floor with a question for the attorney.

There being no objections, the rules were suspended.

Ms. Nakamura: Good Morning Al.

AL CASTILLO, JR., COUNTY ATTORNEY: Good morning. Good morning Council Chair and Councilmembers and Councilmember Nadine.

Ms. Nakamura: I have one question regarding this bill. I just wanted to check on the authority that the County has to initiate this in lieu fee.

Mr. Castillo: Okay, I have to go get my agenda and I'll be right back.

Ms. Nakamura: Alright, thank you.

Mr. Chang: Excuse me we're going to recess the meeting until the attorney gets back.

There being no objections the meeting was recessed at 11:12 a.m., reconvened at 11:13 a.m., and proceeded as follows:

Mr. Chang: Good morning our committee meeting is called back from recess, Mr. Castillo, Councilmember Nakamura had the floor and she did have a question for you. We are talking in response to Bill No. 2415, Councilmember would you like to state your question again please for the County Attorney?

There being no objections, the rules were suspended.

Mr. Castillo: Okay I know what the question is and I'm sorry because in terms of this agenda item I have not had the opportunity to review the work in progress regarding...I know we have a County Attorney's opinion that is about ready for Councilmember Bynum but I don't have an answer for this question right now. Thank you.

Mr. Chang: And that's fine, what we were planning to defer this agenda item for two weeks so we'll send over a written communication from Councilmember Nakamura.

Mr. Castillo: Okay thank you.

Mr. Chang: Thank you very much. Any Councilmembers, any questions? Comments Councilmembers? Okay what we're going to do is suspend the rules, I know I do have some public testimony out there. Is there anyone signed up for testimony.

IHILANI LAURETA, SECRETARY, COUNCIL SERVICES DIVISION:
Our first, our only registered speaker is Kurt Bosshard.

Mr. Chang: Mr. Bosshard please.

KURT BOSSHARD, KAPA'A SOLAR: Kurt Bosshard from Kapa'a Solar. Thanking you again for the opportunity to discuss this. You gave me a wonderful opportunity last time and I appreciate your time. This is designated as tax relief for alternative energy projects and I don't believe that's what's on the table now, and what I've heard about the amendment is going to accomplish that, at least in terms of my project. A type of in lieu fee or an assessment based on gross revenues would not be tax relief at least to my project. It would serve a purpose of generating a substantial tax increase as to the property which Kapa'a Solar is located upon. Presently I'm involved in a tax appeal as to the value based upon an industrial assessment. The reason that it's being treated as industrial is because the Planning

Department reviews these applications as to where the proper citing of these projects would take place. This plays into the A and B designated lands and their appropriateness for use for these projects. The Planning Department I would think would be responsible for making sure that these projects took place where civic leaders believe they should go.

Mr. Chang: Mr. Bosshard excuse me, can you clarify if you're saying A & B do you mean Alexander & Baldwin or are you talking about A and B ag, can we just specify what you're...

Mr. Bosshard: Special ag lands as designated as A and B let's say, not Alexander & Baldwin. And it's the Planning Department who's responsible for citing these things and they would listen to those arguments. It shouldn't be part of the tax code. That's the whole reason why the County is even reviewing these applications in the first place because the State says they're a permitted automatically, a permitted use on certain lands including B lands. Now this is a "catch 22" because this review is what's triggering this treatment as an industrial zoning, that's driving up the taxes for my project so greatly. I'm not doing industrial type of activity, I'm not, Kapa'a Solar is not draining County resources. There's very little impact at all on County's roads, there's no sewer issue, there's no water being used to speak of. And so it's at least as passive as any other agricultural use. But it's the County review at the Planning Department that is, this use permit that is driving the tax office to assess me like I'm a KIUC power plant. That's what the basis of my tax appeal is. I've written you on October 17 and 19, I've submitted those letters again, and I'm encouraging you to look at solar distinctly and to treat this solar use as being on a par with agricultural use rather than industrial use. You can do that, you merely, through the ordinance instruct the county tax office to ignore a use permit in terms of assessment for solar projects because they don't have any greater impact than an agricultural use if you determine that solar is not a form of agriculture.

Mr. Chang: Mr. Bosshard your first three minutes has expired, go ahead please.

Mr. Bosshard: Under the present proposals as I understand them, the taxes on this land will go from what they were as agriculture at approximately \$500.00 per year to either six, eight, or ten times that amount under the proposals. That is not tax relief. On another point I am asking that whatever you propose or come up with as a final solution that it be effective from the first of the year so it would, so Kapa'a Solar would be treated in the fashion I don't think it's fair because we broke ground and did the project and led the way that we should be engaged in this appeal that I am with the County right now, and that would allow me to be taxed at under whatever plan you propose. The other thing is that I would hope that it would mention specifically as to solar that the tax would be

applied, the special tax whatever it is would apply to the area that are covered by the panels and not the fire lanes or the fenced area or that type of thing. That's a much greater area than where the panels are and that's important to lend certainty to the assessor that he knows what he's dealing with when he's dealing with the solar facility. The area that I lease is obviously quite a bit greater than where the panels cover. So that's what is new that I have to offer, and I covered a lot of stuff when I was here before with your allowance so I appreciate that. If there's any questions?

Mr. Chang: Thank you Mr. Bosshard. First of all just one quick question, we have your testimony from October 19 and the 17, did you want to or do you have something prepared to give to us as far as something in writing for today, your testimony?

Mr. Bosshard: No, I think what I've just said is actually that which is covered in those letters pretty particularly. In terms of the Planning Department being the organization who should review these things as to where they go. I got into the question with Mr. Rapozo last time about, you know, there might be a speck of land in this project that's got B land on it or A, and then there might be just a steep drop off or some other factor to the land that puts it back to D or E, it's just a lot of officiating that shouldn't be in the tax office's doing, it should be in the Planning Department's doing. Otherwise the Planning Department should step aside and let you guys decide where they go through your tax...

Mr. Chang: Okay thank you I understand. Is there any members that has a question for Mr. Bosshard, go ahead Councilmember Yukimura.

Ms. Yukimura: Yes. Is your facility, I may have asked this already but is your facility on lands with mainly A or B soils?

Mr. Bosshard: No.

Ms. Yukimura: Okay.

Mr. Bosshard: It's, but the maps are so imperfect that there's kind of like, and they're color shaded. You'd need an expert probably, you could get into arguments with experts probably about the classifications and I think different organizations have different classifications themselves. You could have a case on whether any part of it is covered by a certain type of soil. It would be pretty arbitrary and then you got places that just don't lend themselves to agriculture really maybe, that have some spec of B or A in it and that a facility might be okay in that area for whatever reasons – accessibility or whatever it is. Those are the areas that the Planners go into when you get your, like when I had to apply to have the

facility there and they review all of these things like archaeological factors, soil types, and that type of thing.

Ms. Yukimura: I saw the proposal to deny any exemptions on A and B lands is a way to actually align the tax code to pro-act policy. So, you know you can still maybe get a permit but you're not going to get an exemption and that was discouraging energy developers to go on a class A and B lands but allowing them and supporting them when they go on other classes of lands.

Mr. Bosshard: Keep in mind though that these projects have to be sited where KIUC says they will go. There's a power line some place, the stars have to be lined up right for one of these projects to take place. You can't just put them some place out of the way where there's no infrastructure. They're going to go where the power line is.

Ms. Yukimura: But...

Mr. Bosshard: It's just for the short run that I made to the power line...

Ms. Yukimura: Right, I mean...

Mr. Bosshard: It was like \$40,000.00 to get just 150 feet to get hooked to the...

Ms. Yukimura: Right, well a lot of homeowners have to deal with that issue too especially when they're on ag land. So, I mean I'm sure there's many many complexities to siting an energy facility and right now we're just trying to think of what the best rational real property tax policy would be as related to all our various goals. We have a goal of promoting, protecting ag land and making it available because there are only certain characteristics that make a farm feasible versus other parcels.

Mr. Bosshard: Well apparently, apparently that feasible thing is to farming is not working in the favor of having intensive agricultural operations. There's very little of the land that's being used for intensive agricultural activities. So I would agree with you that it is a worthy goal, I think at that point though you're micromanaging and you want to have these projects as quickly as possible. These things just get in the way. I trust the Planning Department to do that. I would point out as recently as this morning there was a, coming out of the Pacific Business News an article about how the legislature is going to start looking at cutting back on the tax credits and it's only a matter of time. And again, you know, I'm here to tell you that don't miss the boat if you can't.

Ms. Yukimura: Right, and as decision makers for the island we have to balance our priorities for food sustainability, energy sustainability; it's a tricky balance to cut.

Mr. Bosshard: Well right now we have a lot more ag land that we do self sufficient energy projects. So right now to me there's greater benefit in trying to encourage sustainable energy projects. I'm not saying to ignore the land right, because the Planning Department is going to do that.

Ms. Yukimura: Thank you.

Mr. Chang: Any, go ahead Committee Member Nakamura.

Ms. Nakamura: Kurt thank you for your testimony. I have some questions relating to the impact of a solar farm as you call it and in terms of the public facilities, impacts to public services. So is your point that the solar farm does not require County roads, sewer, water, and as a result you maybe should have a preferential rate? Is that kind of where you're going with this?

Mr. Bosshard: Sure. I mean of all the alternative energy projects, solar is the most passive. I believe it doesn't, it would have in most cases less impact than standard agricultural pursuits or intensive agricultural pursuits where you had a number of workers coming to plant or harvest and do that type of thing. I don't have a full time employee there and we don't have a lot of traffic in and out, I don't use any waste there's no waste generated by it at all. There's no water other than perhaps washing the panels and so far I haven't had to do that and it's been almost a year now and the panels are still pretty clean. I haven't had to run a hose on them or anything, although I paid for a water meter I'm not really using it much. I can't think of anything to really where there's any impact at all from the solar farm on County resources. Obviously I should pay tax just to run the office, the tax office if nothing else. But I shouldn't be in the category, Kapa'a Solar shouldn't be in a category with certain other alternative energy projects. I'm not coming here to say – solar is so great or the other ones are a problem. I'm for it all. But if you're talking about a biomass facility where you have a factory and you're hauling in material and you've got trucks and it's like say it's like the Lihu'e Plantation Mill, but it's a gas facility something like that I would think that that...you would have service people, employees coming in and out, you're using a lot of water depending on what your source of the water is and that type of thing. I would think that that type of a project would use more County infrastructure and would pay a higher tax.

Ms. Nakamura: What about hydro?

Mr. Bosshard: Hydro? I think that's fairly passive. Again I'm for the hydro, I don't want anybody to get their taxes jacked up. I don't want to say that we're any better. There's probably a little more activity in maintenance-wise and facilities-wise but the burden on the County I can't think of anything, but maybe it's in between. Under the proposed ordinance from the tax office I would pay an identical amount of tax more or less than a \$100 million biomass facility because they're going to tax us industrial only the land underneath their factory.

Ms. Nakamura: Okay thank you for sharing that insight with us, I appreciate it.

Mr. Chang: Any other Committee Members? Councilmember Bynum and then I'll go to the Chair, you're a Committee Member Councilmember Bynum.

Mr. Bynum: Thanks Kurt for your testimony. I mean that's what I said in my opening comments that not all alternative energy projects are created equal. Like you use biomass which is going to have a relatively small footprint with a lot of activity and a lot of expense in the plan so exempting those improvements it wouldn't happen without that. Where solar has a larger footprint for a smaller production of energy and you're pointing out with much less traffic and impact in other things. And I think that's the attempt here to try to meet both needs. But the bottom line for you is when you did this project, that land was about \$500.00 of taxes right?

Mr. Bosshard: Correct.

Mr. Bynum: And then when you got reassessed those taxes went to what?

Mr. Bosshard: Well I'm in this appeal with the County, it could be anywhere between \$6,000.00 something to \$12,000.00 or \$13,000.00 depending on whether you want my, what I've accomplished so far is to put it in the \$6,000.00 to \$7,000.00 a year. The County's position is it should be greater than \$10,000.00 a year up to \$12,000.00 or \$13,000.00 a year. So I hope that answers your question.

Mr. Bynum: Did you completed an appeal right?

Mr. Bosshard: I'm in the middle of an appeal.

Mr. Bynum: But it went currently, I think your testimony said...

Mr. Bosshard: Currently is about 6,000 some dollars, \$7,000.00, somewhere in there.

Mr. Bynum: So I hope in the meeting in two weeks you can pencil out and think about an in lieu fee and what that would do. I said in my opening comments that even though the tax may be similar right now to what your appeal was, it would give you predictability over a period of time. Would you agree with that?

Mr. Bosshard: Oh, predictability no question. But if this is tax relief, it isn't tax relief. It's predictability.

Mr. Bynum: I don't want to speak for you...

Mr. Bosshard: I don't want to, I'd be predictably hurt by it.

Mr. Bynum: I understand your position. But you know, assessed value of industrial can be very different in 15 years. Presumably...

Mr. Bosshard: Why are we assuming that it has to be industrial when I'm not industrially using the property? I'm just trying to get down to some common sense here. If I'm using it the same as, if it's zoned ag and I'm using it with the same burden on the infrastructure as ag, the tax office in my opinion should be instructed to assess at an agricultural rate. The fact that I have to go to the Planning Department just to get permission to use it, I'm saying shouldn't have to be a trigger to treat me as industrial.

Mr. Bynum: I understand your testimony. I'm just trying to talk about pragmatic realities with your situation right now. When you made this project was it under the assumption that the taxes would remain the same?

Mr. Bosshard: No. I didn't mind some, some increase in taxes. In my particular case the agricultural rate could later go up if the land was divided in some fashion and I was willing to accept that. I hadn't given it a lot of thought. But I wasn't ready for a 10 or 20 times what I had been paying previously, what the property had been paying previously.

Mr. Bynum: And I don't want to speak for the Administration but they pointed out in their presentation that if this project were currently on Maui or the Big Island they'd be taxing the improvements as well.

Mr. Bosshard: Great. They're doing something in South Dakota too. I can't, I don't have any way of telling you what they're doing or what

they're going to do. They don't have any projects. So what are they talking about? I got a project. We have a project, our island has a project, we're trying to have more and we're wanting to encourage them as such. Without costing the County any money in terms of their tax revenues, you know, because I'm still going to be paying significantly more than what the land was assessed at previously. And I won't be using any more County infrastructure.

Mr. Bynum: I think we're trying to find a, I'll speak for myself and I think other Councilmembers as well, are trying to find a solution that incentivizes both types of projects. So let's see how this plays out, thank you for your testimony.

Mr. Bosshard: Thank you.

Mr. Chang: Hold on Committee Member, Chair did you have a question for Mr. Bosshard?

Chair Furfaro: Well you know I wanted to talk about strategies here for, or the lack of in the County. So I can wait for other questions okay.

Mr. Chang: (Inaudible)

Chair Furfaro: Sure. Kurt, first of all I want to make sure I'm hearing you that for your project you are accepting the fact that your taxes, your current taxes may not go down. That in fact you're accepting this project on being an ag rated land for the purpose of developing alternative energy would remain taxed at an ag rate. You're okay with that? That makes the County revenue neutral.

Mr. Bosshard: Yes. I mean not neutral or a little bit up or you want to double them, triple them.

Chair Furfaro: I want to make sure that I clarify this. You know Vice Chair Yukimura and myself, we sat on the County's Energy Sustainability Plan. I'm going to take advantage, we have people from finance here, we have people from the tax office, we have people from planning that can hear this message, and we have George here from Economic Development. I'm going to talk from a business standpoint that one of the things that we said in the plan, I agree with you. Is not to be, let this thing be driven by the tax office or let it be driven by planning, but in the plan we talked about this joint approach where planning, the tax office, finance, and economic development will come up with a strategic plan for alternative energy for the County of Kaua'i based on certain assumptions. I think that's where we're kind of missing this piece.

In your project you're talking about four or five acres I believe of which you can generate one megawatt of energy. Is that about your projections?

Mr. Bosshard: Yes, a little over one megawatt.

Chair Furfaro: Okay, one megawatt. Do you know how many, average megawatts the County of Kaua'i and KIUC generate a day?

Mr. Bosshard: A lot.

Chair Furfaro: 73.

Mr. Bosshard: Yes.

Chair Furfaro: 73 megawatts. So if we have five acres of ag land, D or E classification that generate one megawatt we should be able to say – for 360 acres of our total 136,000 acres of land on this island, for 360 acres during daylight hours we could generate enough electricity that KIUC generates for the whole day. We don't seem to have come to that assumption with the Economic Development Department, the Tax Department, and the Planning Department all together okay?

Now in our important ag land piece, we're talking about the 136,000 acres of land. We're saying in this draft that I've been privy to, 64,000 acres is for food production leaving approximately 64,000 acres for the purpose of cattle and alternative energies. And, it is assumed, one of the assumptions that the solar product would be on C, D, or E lands. So that being said, they have then left 1,884 acres on the island for solar use. But the catch is in the solar use, and you mentioned it, how much of that is close to transmission lines? But now we're trying to find, roughly 360 acres that is close to transmission. Why 360 acres? Because for every five acres of solar production, we can contribute to KIUC 73 megawatts equal to their current production. Now the Public Utility Commission says to them they have to produce or at least have the resources to produce their largest turbine and their third largest turbine as redundancy. So they have to have systems that could develop 109 megawatts a day. To me for the co-op which I'm a member, my benefit isn't to be reinvesting on more turbines, my benefit as a co-op operator is to reinvest in more alternative energies such as solar. So I get the redundancy that I need according to the PUC on the most productive area that is not on the key lands that Councilmember Yukimura mentioned. What can we do in the categories of D and E lands and maybe some encroachment on C, which is kind of consistent with what Mr. Bynum is saying. That if you start to encroach on A and B, hey, that wasn't part of the plan but we need the Planning Department to be part of the group that identifies where that 1,883 acres is and how do we develop the maximum of 360

acres of it, close to transmission lines so there isn't a lot of additional infrastructure required? So you go and look at the important ag land piece and the Planning Department is earmarked 100 acres for solar. They're saying maybe one-third of Kaua'i Electric's production should come from systems that feed solar. Why? Because after the sun sets, until we've been able to store that power, that cannot be our only answer.

So I'm a little caught in this see. George Costa, Mike Dahilig, Steve Hunt, Wally Rezentes, Jr., you folks should be together in a strategic committee. You folks should be answering this question for us before we're just being driven by what Planning says on an application and what the tax department said is on the use. That's where we're not strategically thinking. I have to say, when you're looking at the maximum we could produce, 360 acres is 73 megawatts that incremental tax piece to me is "manini." It's "manini." And then when I talk to KIUC I say to them – how much solar energy do you see going into your system? And they say – well we're not comfortable stepping over more than 100 acres at this time. So to me the thinking, the strategic thinking should be if we're at a point we've got now more than 360 acres of applicants coming in for solar use to me that's the trigger on tax options. 73 megawatts on C and D lands, E lands, in the County that are close to transmission lines that could support KIUC. That's where we need to be and I'm sorry, I don't vote on this Committee I just wanted to throw that out Chairman Chang. To say – I would like the Administration quite frankly to get the heads of those four groups that I just mentioned to come up with some strategic assumptions on where we're going with our energy needs. Not start with the tax bill. We need to start with a strategy that identifies, of that 64,000 acres for agriculture that's what it needs to produce self sufficiency on our island, the next key component to that is water. How do we get it irrigated, how do we put in CIP money for it? When we put in water, how can we now divert some of that to expand the irrigation systems for other ag lands? Of the 64,000 that's left over for other energies other than solar, how much is biofuels? We don't have that strategy yet because each silo of a department here seems to me to be working independently. I'm directing this at Mr. Costa because I have great confidence in what I saw being produced by his department, and Glenn our energy guy, and Bill our ag guy. Somebody has to pull together those assumptions so that we have a comprehensive plan. For me, as a Councilmember I just say hey – I just want to be revenue neutral because as we generate alternative energies we're going to be investing in other economic opportunities in our community.

So did I make the right assumptions? I just need to say you produce with your four or five acres projected one megawatt.

Mr. Bosshard:

Four acres, one megawatt plus a little.

Chair Furfaro: Okay, plus a little. So it's seems to me that formula is something that is proven and we need to get KIUC on board. We can't go past 360 acres and they don't want more than 100 acres. Why are we getting tied up on the tax issue? We should be tied up on the alternative energy issue through a group made up of: Finance, Economic Development, Tax Office, and Planning. KIUC should be a part of that, but they shouldn't drive it. They should be a part of it. Would you agree with my assumption?

Mr. Bosshard: I agree 100%, I'm excited now at your enthusiasm.

Chair Furfaro: My enthusiasm I use to show you when I was 33 playing 3rd base.

Mr. Bosshard: Well, don't give up now man. You just got to do it sitting down now. You know, it is unfortunate that I have to be here in this fashion because up until this time I've been the best team player to promote the island of Kaua'i and what KIUC is doing and what our leaders are doing in helping me get this facility up and running. People call me from all over the islands about the project, about the County of Kaua'i, and the Administration and other officials. I always give a positive spin on what's going on.

Chair Furfaro: And I want to end it right there Kurt because I didn't ask you a question, and as Chairman I have to make the...But I made an assumption here about what we need to be doing with those four divisions, I used some of your facts to make those assumptions, and you do agree with them.

Mr. Bosshard: Yes.

Chair Furfaro: Okay. Chairman Chang thank you very much as a non-committee member and again I'm a non-committee member so I won't vote on anything with outcomes today.

Mr. Chang: Thank you Chair, Councilmember Kuali'i followed by Councilmember Yukimura. Questions for Mr. Bosshard please.

Mr. Kuali'i: Aloha and mahalo Mr. Bosshard. One of the things I noticed is you used the phrase "tax relief" earlier and I think, wouldn't you agree, that there's a difference between tax relief and tax incentive? And in fact it would be relief for you, no it wouldn't be relief for you, it's an increase. There is no relief because you're the first out there and you're looking at it as agriculture. But in the County having the responsibility to now establish what is correct and fair going forward and what we want to do to still provide an incentive, it wouldn't or couldn't be relief for you because you're already with agriculture at the lowest

amount. You did say you agree to paying something fair, but you're basically saying that the industrial rate is not fair. The industrial rate, commercial, industrial, resort, apartment, as far as the land goes it's all the same rate at \$6.90 per \$1,000.00 net assessed value. If not that rate, you think it should be some rate a little lower than that? But higher than ag?

Mr. Bosshard: Well it's the assessed value, the rate is fine I'm not quibbling with the rate. It's the assessed value and the assessed value comes down at an agricultural rate versus an industrial rate. In industrial they have so little industrial land here and they have so few sales that it's entirely arbitrary. As you can see because I'm being bounced around from \$1.7 million to \$800,000.00 on the site valuation right now. It's an unnecessary argument and it detracts from the tax office and myself.

Mr. Kualii: So I would just say that, so we establish these rates, we don't have control over the value of the land, what happens in the market and it gets assessed. So going forward, year after year all we can do is react to how that market valuation, you know assessed value changes and maybe reduce the rate to keep it reasonable and fair. But to start off we have to, you know, differentiate between the different uses and when it's, when industrial, commercial, and resort I mean they're all at \$6.90 for land. Maybe it's overhauling the whole system and distinguishing between the different...but the main point too is about incentive right? So providing a tax incentive so we have more clean renewable energy alternative projects. Yet, when you think about the total need and the total amount that KIUC could utilize and put out to our community that can fill up pretty quickly. If KIUC's goal is not to do all solar but to diversify and have different sources such as hydro and other, because the whole issue with solar until there's good batteries or whatever the night time or peak use. The incentive while it's a good thing, it may not be, need to be such a big push because we're already heading that way and getting there and there's a lot of different projects sort of in the pipe already. They will probably get to the saturation point of what KIUC can accommodate as far as solar goes. I mean because they're not going to take all 75 megawatts of energy production per day from solar even though it would be great to do that instead of burning fossil fuels. Just because of the reliability and overnight and technology and whatever. So would you say you do that as far as the incentive and how big it has to be.

Mr. Bosshard: First I would say that there's adequate land on Kaua'i for these projects. I don't think it's going to develop as rapidly as what you might think. Most of those lands are underutilized at present and they wouldn't be a drain for the County to designate them for that. I don't think the bill is presently considered as an incentive. I don't think the margins are that great for the companies that are going to go into these to where there's that much to share because if it were there would be a gold rush going on right now. I don't think that's

happening. I think there's a lot of jockeying around but it's day to day, people can pull out of these things very quickly. I don't agree that you don't have control, you do have control in how you draft the bill. I'm going to take one more shot on saying that I think most people would come around to considering this to be a form of farming the sun, and they do call it solar farms right, in the State legislation. I grew up in Wisconsin and I made the comment at the blessing of the facility that if it didn't kick and it didn't smell it wasn't farming, that's the way I was brought up. I've come around to being, as you can see, a proponent for saying that sticking a solar panel out in a field and taking the sun's energy is a form of farming. I think we need to make that step as a community and give it up on the industrial side. I don't know why we're all hung up on that this has to be industrial land because the Planning Department says where I put it. Why does that have to be? I want to change the paradigm here and give it one shot, push it in that direction. I'm not going to say that again.

Mr. Kuali'i: No all I said about control was the market value not about...obviously the way this bill ends up being approved for sure has control and what those real property tax rates are each year we have control. So you said four acres you use for one megawatt, what is the total acreage of your property?

Mr. Bosshard: Well it's actually 3.6 acres of panels, I presently have available about 40 acres of where I'm farming animals all around it: goats, cattle, and sheep. I use those animals in part as a fire break because they keep the guinea grass down and fire is a concern. There has been fires in that property within the last couple years. So, I don't know if you consider the animals to be a part of the project which I do, then 10, 15 acres is available to me. I'm using actually, pasturing 30, 40 acres plus the solar farm.

Mr. Kuali'i: So all the remaining acres that is not used on the solar panels is still taxed at the same rate which is land.

Mr. Bosshard: Thank you very much.

Mr. Kuali'i: Ag versus industrial versus commercial, it's all the same rate.

Mr. Bosshard: No. Ag dedicated, I'm ag dedicated on the land where the animals are. So you pay virtually nothing in tax when it's ag dedicated like that and that's why I'm saying the County revenues off of pasturage are very minimal. I don't mind being stepped up, that \$500.00 an acre is not ag dedicated value. That would be down like much less, \$100.00 or something below that if it was actually pasturage only. So you may not allow me to ag dedicate it which would lead to a higher agricultural, if you consider it at agriculture a higher tax which I'm willing to pay. But what, you're not losing in tax revenue because

most of these lands are pasture anyway and if they're ag dedicated you're getting nothing off of them so that's a good point though that I have forgotten to make about the fact that when you have an ag dedication for pasture you're paying at a negligible rate.

Mr. Kualii: So the last thing is you said something about not being ready to pay 10, 20 times as much yet in your testimony here you wrote paying less than \$500.00 a year and then with the new ordinance paying \$3,450.00 a year, so that's seven times as much. How did you come up with 20 times as much?

Mr. Bosshard: That's what the County tax assessment was.

Mr. Kualii: Oh, because of the assessed value?

Mr. Bosshard: Yes, and on my appeal on all of that. So that's why I can't give you a definite number because I don't have a fixed thing.

Mr. Kualii: Right, okay thank you very much. Thank you
Mr. Chair.

Mr. Chang: Any further questions? Councilmember
Yukimura.

Ms. Yukimura: (Inaudible) You talked a lot about services needed but the actual standard for assessment is value. Real Property Tax is a value based tax as I understand it. So when the use gets higher and the value gets higher, that's what our department has been following and tracking. They've chosen to use the industrial standard as the standard for assessing value and I can really understand your concern about the scarcity of industrial land and therefore the somewhat volatility and possibility of it increasing over time. Sort of beyond the control and maybe not being an accurate assessment of your particular facility and property. So my question would be whether we should maybe look at another category, that we create another category because I don't believe it is an agricultural function either, this energy facility. And it's not, I don't believe it should be on, I don't think it reflects equal values. So maybe we look at energy lands or a category called energy facility and try to figure out some benchmark for that which will be tricky because we're all just entering this era of land use for local energy facilities. That might be, reflect more accurately the value and not be tied to industrial lands. What do you think of that?

Mr. Bosshard: I think it's all very interesting. I think it's going to take a bunch of time and a lot more thought. Meanwhile we're already, Councilperson Bynum has been trying for a year I guess as I understand it to a head. I feel like I'm kind of caught in a meat grinder of, I'm kind of surprised that

you're taking the position so strongly that this is industrial and that it should be taxed at that rate or some other rate. It just doesn't work. None of this process is working for me. That's my problem. But I don't think it's working for the industry either and in trying to get the jump on the other islands and get KIUC going on doing this.

Ms. Yukimura: Well my question was actually geared to trying to address your, some of your issues. But I have to say that as decision makers for the County, responsible for the Real Property Tax system, we're struggling to find an appropriate way that's not so out of the context of real property taxes that's fair and addresses the needs of the energy entrepreneurs like yourself. You suggested a way to address the fact that this bill has been delayed by making it retroactive, and that's a whole other issue but I'm thinking we first need to find the proper standard in way of measuring and assessing taxes and then we go to that next issue you're talking about. But I'm, you and others have raised the issue of certainty, you've raised the issue of fairness, and the problem with linking to industrial lands. So I and I think some of my colleagues are trying out different ideas to see because we are all having to create a new for this new area of energy facilities.

Mr. Bosshard: I kind of feel like I'm saying that the Pope is dead or something like that.

Mr. Chang: Excuse me hold on please, hold on I'm sorry.
Do you have a specific question?

Ms. Yukimura: Let me see if I had any other questions. No I don't think so, thank you.

Mr. Chang: Okay thank you very much. You know there are others that want to testify so I want to move this along. Hold on, before Councilmember Rapozo, the intention was for me to defer this our Committee and I do want to get the rest of the testimonies in and discussion before our lunch break which is right around the corner. Councilmember Rapozo please pose a question to Mr. Bosshard.

Mr. Rapozo: Thank you and I'm not a Committee Member as well but I did, I read your October 17 testimony. If in fact the bill was changed to just assess future assessments at ag, ag rates, what does that do? Does it offer more predictability? Does it offer more stability in the industry?

Mr. Bosshard: Yes it does because the valuations are more predictable and ag land generally is assessed at a lesser rate than industrial and is less arbitrary as can be seen from my appeal.

Mr. Rapozo: And then just one last question, you know every bill that comes up has a purpose. I just want to make sure, and I'm going to really hold your answer at a very high level of trust because you're pretty much the only one that's done it so far, that actually went through and built it. So I'm going to ask you, the purpose of this ordinance is to create incentives for Kaua'i County property owners to invest in renewable energies such as solar, biomass, and other, is that true? As it relates to solar?

Mr. Bosshard: Yes.

Mr. Rapozo: It does create an incentive?

Mr. Bosshard: Well, are you saying the bill?

Mr. Rapozo: This bill right here.

Mr. Bosshard: Does not.

Mr. Rapozo: Okay. Let me just read it again. The purpose of this ordinance is to create incentives for Kaua'i County property owners to invest in renewable energy such as solar. Is that true? In your opinion?

Mr. Bosshard: It is not.

Mr. Rapozo: Okay. This ordinance is intended to promote and otherwise encourage large scale alternative energy facilities by offering property tax relief for such ventures? Is that true in your opinion?

Mr. Bosshard: It may be to the biomass people.

Mr. Rapozo: I'm just talking solar, because you're not a biomass operator. I'm just, because it specifically mentions solar as well.

Mr. Bosshard: Not for solar.

Mr. Rapozo: Okay, that's all I have Mr. Chair.

Mr. Chang: Thank you very much Councilmember. If there's no further questions Mr. Bosshard thank you. I do understand we only had one registered speaker so I'd just like to ask members of the public, Ms. Allione please.

JODY ALLIONE, PO'IPŪ SOLAR: Good Morning Council, thank you for the opportunity to speak again. I'm Jody Allione from Po'ipū Solar. First off I just wanted to mention that we're in a little bit of a different position than Mr. Bosshard. He's in the unfortunate position of having a project operating. He went and financed his project based on his proforma with the knowns and the, with the knowns including what his tax rate was. We're in a position of going to financing and we're fortunate that this was brought up in advance so that we can apprise our lenders that this is what we're likely to see with some degree of certainty or not. It affects how they do the financing or whether they do the financing. So it's fortunate for us and unfortunate for Mr. Bosshard. But I did want to bring up just a point of information that relates to a testimony from two weeks ago. The day after that meeting I spoke with Keith Yamashita to get certainty of what was happening in Honolulu. I did allude at the time to the fact that there was this utility issue that we kind of fell within. What that is, is on ag land there's a Utility A and a Utility B category that is allowed. Utility B incorporates solar substations, switchyards and things that support generating. But solar is actually within that category and it is an allowed use on ag land on Honolulu in that County. So he said you don't need a conditional use permit so there's no way that they can change the designation under the solar site. So we will be assessed at ag rates on O'ahu if we are on ag land. And then the B, C, D, and E is allowed by the State, it exempts us from a State land use permit. So we do have that benefit. But I wanted to clarify that because it's an important precedent I think for this date. It's important for us to have a fixed price and to the extent that this amendment or this proposal promotes a fixed price going forward based on revenues, I think that's fair. I don't think I'm going to take the position of disputing what the number is but it's a reasonable approach. So you have two ways you can go: you can have the Planning Department change the designation of the land under the solar which would set a set rate which is what you have promotes; or we can just put this into the tax code. I personally support taking A and B land, class A and B land out of this so that we're not fighting ag. However as you mentioned it's not a lot of land. We're actually using six acres per megawatt and that's pretty much what we're seeing statewide. So we either have a less efficient or wider spacing but that incorporates all the roads and everything that relates to the solar project. So that's pretty much what I have to say now.

Mr. Chang: Thank you Ms. Allione. Councilmember Bynum.

Mr. Bynum: So the proposal of having an in lieu fee at a percentage would work for your situation?

Ms. Allione: Yes, because that information we'd have to base our GET, our taxes on anyway so we're not giving out any information that's not available.

Mr. Bynum: Right and you had a concern about opening your books.

Ms. Allione: Right, yes.

Mr. Bynum: This wouldn't require you to open your books so to speak.

Ms. Allione: Correct.

Mr. Bynum: It would be just the same reporting you do for GE taxes. And then it offers that predictability over the life span of the project.

Ms. Allione: Yes, it's really important for us.

Mr. Bynum: Because even if it remained ag rates you don't know what that assessed value is going to be in 15 years or 20 years.

Ms. Allione: It's not as much of a risk if it were ag rates, but it's still there.

Mr. Bynum: Thank you.

Mr. Chang: Thank you Councilmember Bynum. Councilmember Yukimura did you have a question?

Ms. Yukimura: No I'm good thank you.

Mr. Chang: Anyone else have any questions? Councilmember Nakamura no? Council Chair please.

Chair Furfaro: As we were discussing this today, two things continue to stand out for me. First of all in our budget process Councilmember Nakamura introduced, and I'm saying this for the benefit of George Costa with Economic Development. We put some CEDS money in our budget for the specific use of gaining this task force to evaluate some of these things. But one of the problems is, obviously with that task force we would invite KIUC to participate. But you negotiated a rate with them at "x" cents for a 20 year period?

Ms. Allione: Yes, fixed rate.

Chair Furfaro: Did they not give any opportunity for an incremental review of those rates for say every seven years a window opens up to revisit the operation?

Ms. Allione: No. It was pretty much a "take it or leave it."

Chair Furfaro: Okay, a pretty much "take it or leave it," I see, we need to make sure that they're at the table with this CEDS money and this energy task force then. And let me ask you one more question, Council Vice Chair Yukimura brought up a great point I thought. Perhaps for the time being this issue of remaining at ag rates for solar only I'm saying, she had suggested that we might want to have a ninth tax bucket called a energy production rate. Are you in the investment mode that would be open to that?

Ms. Allione: Well, it's a reasonable alternative. One of the problems I see with changing going forward is, I can't go back to my lenders at this stage...

Chair Furfaro: Okay you answered my question with that.

Ms. Allione: It's uncertainty.

Chair Furfaro: But you do say a ninth tax bucket category is a reasonable approach?

Ms. Allione: Yes.

Chair Furfaro: Thank you. Chairman Chang thank you very much.

Mr. Chang: Thank you very much Mr. Chair, any other questions for Ms. Allione? If not, Jody thank you very much for your testimony.

Ms. Allione: Thank you.

Mr. Chang: I understand Mr. Mickens you have a few words.

GLENN MICKENS, RESIDENT: Thank you Dickie. For the record Glenn Mickens. In my opinion the major factor that must be considered here is: what is top priority? Solar or ag? I have understood that we want to get off fossil fuel as our number one priority so no matter what type of land is impacted we should give every tax break to someone like Kurt who is doing everything he can to get us off fossil fuel and to help us stop global warming. Let's not put up tax blocks

to impair his actions going forward. According to our Farm Director, we do not have enough people on Kaua'i to farm our lands, A, B, or whatever. Farming will not, on the this island anyway, ever be profitable enough to farm on a major basis. That was our Farm Director's words to me. So again I believe that this Council should do everything they can to encourage people like Kurt to give a solar, a wind, or hydro energy to get us off fossil fuel. Thank you Dickie.

Mr. Chang: Mr. Mickens thank you very much, any questions for Mr. Mickens? Thank you very much. Any others? Mr. Taylor please.

KEN TAYLOR, RESIDENT: Chair, members of the County Council my name is Ken Taylor. As I said a couple of weeks ago I thought that you were wasting a lot of time on this proposal. You should leave things the way they are. If you want to help these people, freeze their ag rates for the 20 years that their contracts will be running. Charge them for the improvements but what I see and hear going on is not solving any of the problems that are being, trying to be resolved. I think that you're making a mountain out of a mole hill because my understanding in talking with KIUC that this form of alternative energy, they can only accommodate about 20% because of the intermittently activity of the case. The problem is if they're running, if you have the 20% up and running you and a cloud blows in and knocks out 5%, 10%, 15% of what's being happened, they can't get the generators up and running fast enough to accommodate those kinds of problems. So there is an issue there. Getting back to, is again my understanding that the projects that are on the table right now just about deal with the 20% that they can consume. Now they did tell me that by putting battery packs which add a lot of additional expense they can increase that 20% up to maybe 30%. But it's still a major expense to, and I understand that the project out in Kōloa does have some battery pack, I don't know what that adds to how their operation functions. It just seems like if you just left the tax situation the way it is, freeze the rates. He says \$500.00 a year. Freeze it for the 20 years. That will help him take care of this situation until then. If there's already projects under way or in the planning stage to move forward to deal with 20% that we can consume without your so called help, what are we accomplishing? It's already being done and so just tax it for what it is – ag land. Tax the improvements. I think if you're going to look at giving one of those documents it's at 100% relief on investment, well in some cases they're getting 30%, 40%, 50% tax relief on improvements from the Federal government. So we shouldn't be giving them tax relief on that federal money that they're, or help that they're getting there because that puts the burden again back on the rate payers. I think that's wrong. Just leave the taxes the way they are and put a 20 year freeze on any of these projects and move forward. Thank you.

Mr. Chang: Thank you Mr. Taylor. Any questions for Mr. Taylor? Hold on Mr. Taylor, Mr. Taylor please we have some questions. Chair.

Chair Furfaro: I don't know if you heard earlier. The summary as you're referring to us as the "so called help" okay. We're referring this back to what's in the strategic plan in George's committee. Getting those four divisions - energy, finance, you know, they have to get back to the work table. You also, we're only talking about solar. Maximum exposure 360 acres, what I reported KIUC wants is no more than 100 okay. But I want to say that over a 20 year period, a lot of technology will be developed about battery storage. So your comment about freezing it for 20 years as technology advances, that might be something that the committee wants to revisit. Our peak demand although it's winter now, it's dark at seven o'clock but battery storage can be up to three to four hours. The peak demand here is 6:30 a.m. in the morning and it's 7:15 p.m. at night. If technology with battery storage for these programs develops we may not want to make this commitment for 20 years. But the other word I used is, and you're familiar with it by now I hope is - 100 acres is pretty "manini." That's the point I'm trying to drive across on solar only, it's pretty "manini." Thank you Ken.

Mr. Chang: Thank you Chair. Mr. Kuali'i you had a question?

Mr. Kuali'i: Aloha Ken. So that's what I was talking about with Mr. Bosshard earlier as far as the saturation of KIUC and how much they can accommodate as far as solar because they're looking at other sources of energy too. Where did you get the 20% figure from?

Ken Taylor: Talking with the engineer Brad I forget his last name, overseas production KIUC.

Mr. Kuali'i: Because if that's the case then I agree with you that the 20% of the 75 megawatts per day would be 15 and with the few projects that are in the pipe and that realistically, potentially come on line, we're there. The need for an incentive then, of course though what Mr. Chair said about the battery and if future technology means we can create all this energy, put it in a battery and sell it to the rest of the world that needs it maybe that's something else.

Mr. Chang: Thank you Councilmember Kuali'i.

Mr. Kuali'i: Because we got sun.

Mr. Chang: Any other questions for Mr. Taylor? Mr. Taylor thank you very much. Any others, I just want to remind everybody we're going to be finishing this discussion. We are going to be deferring, so just want to make sure we can get out of here by lunch. Mr. Lonnie Sykos please.

LONNIE SYKOS, RESIDENT: Pardon me, for the record, Lonnie Sykos. The rationale for having property taxes is not that the government needs to take money from businesses in order to run itself, but to mitigate the public expenses that occur because the businesses occur. We provide the roads, we provide the railroads, all of that infrastructure and thus we tax business and water to get the money to provide the infrastructure. The solar systems bring us into uncharted territory in that we have industrial activities that cost the general public very little money. We don't have to build roads, maintain anything, there's not a big labor workforce to provide schools for. So it seems that equity would be to, in part, look at what is the savings I guess. The benefit to the County of having these very low expense to the County businesses and the issue of whether solar farming is actually agriculture or industrial. Perhaps given that, not just solar, but other technologies in fact probably technologies we don't even know of today could be coming on line soon and deal with this issue of using ag land for industrial purposes by either getting it off of ag land or having the taxes reflect the expense to the community of having the operation occur. And so solar is much less expensive to our community than creating power for money. So I think they should be taxed at the lesser rate. Thank you.

Mr. Chang: Thank you Mr. Sykos. Any questions for Mr. Lonnie Sykos? If not, anybody else in the audience would like to testify on this agenda item? If not we're going to call the meeting back to order.

There being no objections, the meeting was called back to order and proceeded as follows:

Mr. Chang: Councilmember Bynum discussion?

Mr. Bynum: Again I appreciate the discussion. I can't think of a more important issue for Kaua'i than this and we're getting off of the dime and there's a lot of reasons to be optimistic. But, that's why as mentioned, I had hoped that this bill would have been a year or more ago so it's proactive and it laid it out. Ms. Allione said very clearly the difference between a project that already exists and how it's impacted. Basically we have very significant projects that are seeking finance right now and if we do nothing, they won't have it. The projects won't happen. We have to do some kind of incentive. I wish it was pro...it is, so there is a sense of urgency about this bill and I appreciate and I know the Administration and the County Attorney recognize that. The Administration agreed to break this out separately from our big tax package because they realized the urgency. The County Attorney responded to a written request in three business days with a written response. So I'm very hopeful by next meeting we will have something to pass on to the full Council. You know, because this...it's rumored that the rate is like \$0.20 that people or developers are getting. Well if you look at your tax bill you can see we're paying over \$0.40 now and in 15 years that \$0.20 is going to be something that we are really going to be happy that we made happen. So I agree with the Chair that the tax, the revenue differences we're talking about here are "manini" in the bigger scope of things. On the other hand, there's this sense of fairness in taxation and we don't want to give an incentive for use of ag for, in my opinion, for energy that's greater than the incentive we would give farmers to grow food because that's an important issue too. We're seeking that balance and I believe

that we're close to achieving that. But if we made the in lieu percentage 0.50% or 1%, it wouldn't have a big impact on the County's revenues, but it would have a huge impact on our energy cost going into the future. I think we'll probably have something worked out by the, in two weeks from now. But there is a sense of urgency. We have a large biomass project that will not get financing if we don't pass this bill, period.

Mr. Chang: Thank you Mr. Bynum. Any other Councilmembers? Discussion? Councilmember Nakamura please.

Ms. Nakamura: Just want to thank you for just bringing that long term perspective to the table. There was one comment earlier made about consistent, the A and B lands and consistency with State law. So I just wanted to clarify that under 205, the Hawai'i Revised Statute, under ag uses permitted, for solar energy facilities they do allow it on B, C, D, and E lands. So B and C, especially where the solar facility supports an ag operation. So I just wanted to, you know, keep that in mind if we're going to put in some language relating to this. Thank you.

Mr. Bynum: If I can just follow up with something else that...I think the provision for B and C, the addition of B was fairly recently. I'm not sure why the Legislature did that but B and C are really different. Part of the feedback I think we may have gotten from the County Attorney that was discussed here today: do we do that in the tax policy; or do we do it in the Planning policy. That's something that we'll be looking to sort out. But basically saying that we don't want to, A and B land is the prime existing water right slopes and so there is some, regardless of what the Legislature said for Kaua'i to see that we're not incentivizing the use of that land for other than biological ag.

Mr. Chang: Thank you Councilmember Bynum. Councilmember Yukimura.

Ms. Yukimura: Yes. Just to append to that too, I think the Counties have the right to be stricter in their regulation of ag land. So it is a policy decision we may have to make for ourselves in our County.

Mr. Chang: Thank you. Any other discussion? Councilmember Rapozo.

Mr. Rapozo: Thank you. And I guess to start off I would say that belongs in the Planning Code versus the Tax Code. I think we have to be cognizant of the purpose. Every bill that we review has a purpose and as I mentioned earlier when I asked Mr. Bosshard, and from the testimony we've heard today, this bill doesn't appear to provide incentives in renewable energy for solar. It just doesn't. We've heard that from people that's actually doing it or trying to do it and not necessarily promoting large scale alternative energy facilities. I think we need to address that and if we're going to continue on this path then we need to amend the purpose because then it's not valid; it's invalid. The purpose does not match the text of the bill. The other real concern I have and I guess I'll probably ask for an attorney's opinion is, we have zoned lands, lands zoned for specific purposes. With that zoning comes a whole bunch of requirements, restrictions and so forth. I'm not sure we have the, and maybe we do, but I'm struggling with this – how can we tax a land parcel other than what it was zoned for? I'm having a struggle with that. If that's the precedent we want to set I'm not sure I support that. You really

take away a reliance on the people that got their zoning. If I got zoned for ag, and my use is an acceptable use, an allowable use under ag, how can I come in and say – but we're going to tax you at industrial? And we're going to take the assessments as an industrial assessment, at an industrial rate. I have a concern with that because it's really, I don't think it's fair. I think we've heard some testimony today about what impact does it have to the community, to the taxpayer. Is it arbitrary and capricious that we'll just pick a number because we have an opportunity now, because it's in a new industry now that we can go tax? Or is there a correlation, and I'd like to see that correlation. Because I'm concerned that more and more I hear the less and less impacts they have on the community but we're going to tax them. I think that is a concern. A and B lands need to be preserved. Don't get me wrong, I don't think we should be incentivizing anything. In fact I think we should be looking at incentives for farmers as well. But as far as the industry goes, this specific bill, and the publicity that this County has obtained, and the photo ops that many have taken to go out and become sustainable, and let's push solar, I think it's kind of hypocritical now to come back and say – hey we're going to go, but, we're going to tax you. And we're going to tax you to the point where your project may not go forward. I'm really really concerned about that because I think we're sending the wrong message. I'm sure Mr. Bosshard and Ms. Allione, and they talk in their industry circles. It's like the developers in the mainland at a national conference, at a regional conference they'll say – the developers have already taken off Kaua'i off the map. They know – don't go there, you just...and I don't want that to happen with this industry with sustainable energy, renewable energy. My gosh we have an opportunity. This window will not be open for much longer with tax credits, these things are going to close and then it's going to be very difficult. So when we have an opportunity, I believe, and I think Mr. Furfaro said it best in his dialogue with the getting it back to the Committee that we funded, I think it's time to go back to the table and say – hey, let's look at it as a true opportunity to incentivize solar and not look at it as another opportunity for taxes. I think when you look at the big scope, the 20% cap, 75 or 15 megawatts, the financial impact to the County is going to be so minimal. It's not like we're not going to be able to build a new building with the revenues generated from solar. If anything we'll, \$10,000.00 or \$15,000.00 a year, total, it's minute. So anyway I'm sorry Mr. Chair, I know you want to get out of here by lunch but I just wanted to get my points in before we go to lunch. Thank you very much.

Chair Furfaro:

Do you have time for me?

Mr. Chang:

Council Chair.

Chair Furfaro: You know I want to make sure everybody understands. My comments today were about solar. The fact that what we're dealing with is, KIUC says about 100 acres, maximum exposure I think is the 360 acres. I also want to say that the A and B lands that are identified in our important ag land amount to about 64,000. They are A and B lands with irrigation, with water. These opportunities here with C, D, and E lands I think is where solar needs to be focused. I have great confidence in Mr. Costa's department that he's going to take some of these comments that we've made. Also the fact that through our Planning Chairman during budget time, we put money in, that Councilmember Nakamura really pursued for this economic development opportunity to pull those four groups together – Finance, Tax, Planning, and Economic Development, and pound out a real strategy based on the right assumptions for our community. Mr. Chang thank you very much for letting me speak.

Mr. Chang: Thank you Chairman. And thank you all for this spirited discussion. I'm just going to close by saying, I believe this is a very very complex, it might seem easy. There was a comment saying that we're not doing anything about solving the problem. I just want to let you know and for the record, those that are out there, after this meeting convened a week ago or so I want to thank the Committee Members and the fellow Councilmembers because everybody was on it. I mean, we were all on it that people were beating others to the punch. I believe we had the same kinds of questions. Of course we can't discuss it, but I just wanted to say thank you because when you look at all this work that's being needed to get done, everybody is just asking this question, this question, this question, this question. I believe it is very complex because it never happened. It's not happening and we have one, Mr. Bosshard, we have other projects that are on board and as I mentioned earlier, we hear all the beautiful news in the paper about these people getting their permits, this people getting their permits, this people getting their permits, and when I call them because I feel that it's great news then everybody is getting a little bit of a stall here, a stall there, a stall there. So I don't believe it's as easy as we all think and that's why we're here. To try to get everything together and make the right possible decision. So again, I really do again want to thank all the Committee Members for all your hard work because this is a lot of hard work behind the scene that I don't believe the public understands what goes on behind the scenes. So I really sincerely want to say thank you to all the Committee Members and Council Chair Furfaro and Council Chair Rapozo, and yes, I didn't forget the staff. And on a little small foot note for those of you that may be watching out there or for our captioners, there were the words "manini" running around a few times. For those of you that are out there that might not know what "manini" is, it means small. Like what Councilmember Rapozo said, minute, and other than that it's a little yellowish-silverish fishy one with the black stripes that swims around. So nonetheless having no further business with the Economic Development & Renewable Strategies, can I please get a motion to receive.

Mr. Rapozo:

Defer.

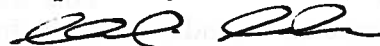
Mr. Chang:

I beg your pardon, motion to defer.

Upon motion duly made by Councilmember Kuali'i, seconded by Councilmember Yukimura, and unanimously carried, Bill No. 2415 was deferred.

There being no further business, the meeting adjourned at 12:37 p.m.

Respectfully submitted,



Ihilani C.J. Laureta
Secretary

APPROVED at the Committee Meeting held on November 23, 2011:



DICKIE CHANG
CHAIR, ECONOMIC DEVELOPMENT & RENEWABLE ENERGY STRATEGIES
COMMITTEE

